

**UNITED STATES DISTRICT COURT FOR THE
EASTERN DISTRICT OF PENNSYLVANIA**

Petitioner/Plaintiff	:	
	:	
v.	:	Civil Action No. _____
	:	
	:	
	:	
Defendant(s)	:	

REQUEST FOR APPOINTMENT OF ATTORNEY

I, _____, Petitioner/Plaintiff, request appointment of counsel as provided by 42 U.S.C. § 2000(e)5.

1.) I have made a diligent effort to employ an attorney [check appropriate box(es)]:

☐ **CONTACTED PRIVATE ATTORNEY(S)**
(List all attorney(s) contacted and state why each is not representing you.)

☐ **CONTACTED A LEGAL AID ORGANIZATION**
(State when this organization was contacted and why it did not assist you.)



CONTACTED BAR ASSOCIATION LAWYER REFERRAL SERVICE, if available. (*State what assistance was provided.*)

2.) If unable to pay attorney's fees or costs - I am financially unable to hire counsel (Complete and file Form 3 - In Forma Pauperis Petition)

3.) I believe I have a claim against the following employer (Give name and address):

4.) The reason(s) for my claim are (Give brief employment history with dates and specific reasons for lawsuit):

I certify under the penalty of perjury that the foregoing statements are true and correct.

Signature

Date

**IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF PENNSYLVANIA**

Under the law, the federal district court may appoint an attorney to represent a plaintiff in an employment case.¹ The Court strongly values and endorses this effort to provide counsel in appropriate cases for persons unable to obtain counsel themselves and who assert that their civil rights have been violated. Accordingly, the United States District Court for the Eastern District of Pennsylvania has established the Plaintiffs' Employment Panel (PEP), which is comprised of volunteer attorneys who have agreed to represent plaintiffs in employment actions by court appointment². The Court and the bar shall join together to make this program successful.

¹ Title VII of the Civil Rights Act of 1964, § 706 (f)(1)(B), 42 U.S.C. § 2000e-5(f)(1)(B), provides -

Upon application by the complainant and in such circumstances as the court may deem just, the court may appoint an attorney for such complainant and may authorize the commencement of the action without the payment of fees, cost, or security.

The Panel program also covers cases brought under the Age Discrimination Employment Act (ADEA), the Americans with Disabilities Act, the Rehabilitation Act, and state claims which can be properly appended to federal employment claims.

² From time to time the Chief Judge of the Eastern District will designate one or more members of the Panel to be Program Coordinator(s). The Program Coordinator(s) will supervise the recruitment of attorneys for the PEP and will work with the Court and the Clerk's Office to implement the program. Currently, the Panel Coordinator is Scott Pollins, Esquire.

The Plaintiffs' Employment Panel (PEP) shall operate as follows:

1. The Clerk of the Court's office shall maintain a list of panel members, in alphabetical order, and shall assign requests for appointed counsel from the list *seriatim*. Law firms shall notify the Clerk of the current contact person in the firm to whom such requests should be sent.
2. Individual lawyers and law firms will not be asked to accept more than one PEP appointment per year, or a total of two such actions at any one time. Large law firms may be asked to accept up to three such actions and no more than a total of five such actions pending at any one time. A large law firm, for this purpose, is one having 100 or more lawyers. Firms and practitioners may volunteer to take additional representations, but will not be required to do so.
3. Upon inquiry to the Clerk's office or upon the proposed filing of a *pro se* complaint, an employment action plaintiff will be given this program description, including the attached application for appointment of counsel. Plaintiffs are hereby advised that a request for appointed counsel does not guarantee that counsel will ultimately be appointed. The plaintiff's request for appointed counsel is dependent upon the availability of a PEP attorney willing to undertake the requested representation and the plaintiff's own compliance with the procedures set forth in this description, including cooperation with the attorney(s) to whom he/she is referred. Plaintiffs should also be aware that representation by a PEP attorney does not necessarily mean that he/she will not be required to pay a contingent fee for the representation, and/or advance litigation costs.
4. The Court will screen the Plaintiff's request for "frivolousness" and prepare an order granting or denying the request.

5. If the request for appointed counsel is granted, the Clerk's Office shall contact the attorney next on the list either by telephone or E-mail to ask whether he/she is available to review a PEP referral. If the attorney does not respond to the Clerk's Office within three business days, the Clerk will proceed to the next attorney on the list.

6. When the PEP attorney agrees to review a referral, the Clerk shall inform the plaintiff that he/she has been referred to an attorney, and will give the plaintiff the attorney's address and telephone number. The Clerk shall also advise the plaintiff that referral to an attorney does not conclude the appointment process, and that counsel will be appointed only if a PEP attorney agrees to accept the case.

7. The Chief Judge shall send a letter referring the case to the attorney for review. The Clerk shall enclose with the letter a copy of the approved application, the plaintiff's address and telephone number, and any other materials which the Clerk has available for the attorney's review, including the complaint, answer, and any other materials of record.

8. **Within seven days after receiving notice that his or her case has been referred by an attorney, the plaintiff should contact the attorney's office to arrange a meeting to discuss the case and provide the attorney with any documentation or other evidence that he/she believes may have relevance to the case, or which the attorney requests.** Counsel shall also make reasonable efforts to contact the plaintiff, recognizing that some plaintiffs are indigent and may not be as easy to contact as typical fee-paying clients.

9. PEP attorneys shall meet with the plaintiff within fifteen (15) business days of the referral unless special circumstances make such a meeting impracticable or futile.

10. Within fourteen (14) days after meeting with the potential client, the attorney will inform the assigned Judge as to whether he/she will undertake representation by returning the form enclosed with the referral letter for that purpose or entering an appearance on the plaintiff's behalf.³ In the event that the attorney does not return the form and does not notify the assigned Judge that he/she requires additional time to complete the case review, the assigned Judge's deputy clerk may call the attorney regarding the status of this referral.

11. Counsel shall exert every reasonable effort to accept the case, and provide good, lawyer-like representation to the same extent that they would for any other client, and in accordance with all applicable professional duties and ethical obligations, until the case is concluded. The bar recognizes that such commitment is essential to the effective operation of the PEP. Representation shall be declined only in cases in which 1) counsel's professional schedule precludes the time commitment or financial resources that the case appears to require; 2) the case is devoid of merit; 3) there is a conflict of interest; or 4) the plaintiff has failed to cooperate with counsel. PEP members are expected to accept cases, and doubts are to be resolved in favor of acceptance. If plaintiff's statement of facts would appear to survive a Rule 12 motion, the case should not be rejected for "lack of merit."

12. If three successive attorneys reject the case for "lack of merit," the case will not be referred again without consultation between the court and the PEP Coordinators as to whether the case warrants additional referral efforts, or exceptional circumstances exist which might be

³ This initial period, in which either the plaintiff or the attorney may decline representation, may be extended by agreement for an additional fourteen days, so long as the assigned Judge receives timely notification that such an extension has been agreed to by both parties.

impacting upon the referral process, such as the plaintiff's serious mental or physical disability, or a language barrier.

13. The attorney and the plaintiff should enter into a written fee agreement at the outset of the representation.⁴

14. The Court recognizes that these are public interest representations and, to the extent practicable, will consider this factor in case management and scheduling. If, after the representation has been entered into and an appearance entered for the plaintiff, the attorney finds it necessary to ask for leave to withdraw, the Court will give due consideration to the public service nature of the representation.

15. The Court's Public Interest Committee and the PEP Coordinators shall meet at least once a year to discuss panel matters of mutual concern. The Court and the Panel Coordinators shall provide a yearly Continuing Legal Education Course, in cooperation with the Pennsylvania Bar Institute, to keep PEP members apprised of recent developments in employment law and address any other educational needs which they deem appropriate for PEP members.⁵ The Court encourages Panel members to attend these programs.

16. Any attorney or law firm with a question or concern about the operation of the PEP may direct it to one of the PEP's Coordinators. In the event that the Coordinators are

⁴ Funding for litigation costs up to a maximum of \$2500.00 per case is available to PEP attorneys through the Public Interest Civil Litigation Fund (PICLF). A description of the PICLF is attached hereto, and incorporated by reference herein.

⁵ Although Panel members will be required to pay PBI's fee for attendance if they wish to receive CLE credit, they are free to audit the Panel's CLE free of charge, so long as space is available. Panel members who wish to audit the CLE are responsible for notifying PBI to make the appropriate arrangements.

unable to resolve the matter, the attorney will have the right to direct his/her concern to the Court's Public Interest Committee.

17. Panel attorneys who specialize in the field will be available to confer with other panel members on particular issues. Should counsel require such assistance, they should contact the PEP Coordinators for an appropriate referral.

18. The Panel Coordinators will make reasonable efforts to increase and maintain the number of attorneys and law firms participating in the PEP. The Court will also encourage bar associations in all counties that make up the Eastern District of Pennsylvania to make such efforts.